

City of Cuyahoga Falls

Office of the Mayor

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September 19, 2018

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, District of Columbia 20554

RE: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79

Dear Ms. Dortch:

On behalf of the City of Cuyahoga Falls and our municipal electric customer-owners, I am writing to express our concerns about the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment. The Cuyahoga Falls Electric System is a non-profit utility that has proudly served its customer owners for 130 years. The great service that we can affordably offer our customers is due in part to home rule and decision-making that is tailored to what our customers and residents demand.

While we appreciate the Commission's efforts to engage with local governments on this issue and share the Commission's goal of ensuring the growth of cutting-edge broadband services for all Americans, we remain deeply concerned about several provisions of this proposal. Local governments have an important responsibility to protect the health, safety and welfare of residents, and we are concerned that these preemption measures compromise that traditional authority and expose wireless infrastructure providers to unnecessary liability.

- **The FCC's proposed new collocation shot clock category is too extreme.** The proposal designates any preexisting structure, regardless of its design or suitability for attaching wireless equipment, as eligible for this new expedited 60 day shot clock. When paired with the FCC's previous decision exempting small wireless facilities from federal historic and environmental review, this places an unreasonable burden on local governments to prevent historic preservation, environmental, or safety harms to the

community. The addition of up to three cubic feet of antenna and 28 cubic feet of additional equipment to a structure not originally designed to carry that equipment is substantial and may necessitate more review than the FCC has allowed in its proposal. One of the City's biggest concerns is safety. By mandating that additional equipment be placed on City-owned utility poles, line workers face increased safety hazards.

- **The FCC's proposed definition of "effective prohibition" is overly broad.** The draft report and order proposes a definition of "effective prohibition" that invites challenges to long-standing local rights of way requirements unless they meet a subjective and unclear set of guidelines. While the Commission may have intended to preserve local review, this framing and definition of effective prohibition opens local governments to the likelihood of more, not less, conflict and litigation over requirements for aesthetics, spacing, and undergrounding. This proposal would undo all the hard work accomplished in Ohio House Bill 478, which made into law the agreed-upon compromises and negotiations between Ohio's municipalities and the telecommunications industry.
- **The FCC's proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation.** Local governments share the federal government's goal of ensuring affordable broadband access for every American, regardless of their income level or address. That is the reason that many cities have worked to negotiate fair deals with wireless providers, which may exceed that number or provide additional benefits to the community. Additionally, since the Commission has moved away from rate regulation in recent years, it appears improper to now narrowly dictate the rates charged by municipalities. The City's electric service should not unfairly bear the cost of these wireless services.

The City of Cuyahoga Falls has worked with private business to build the best broadband infrastructure possible for our residents. We oppose this effort to restrict local authority and stymie local innovation, while limiting the obligations providers have to our community. We urge you to oppose this declaratory ruling and report and order.

Respectfully submitted,



Don Walters
Mayor